

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|-----------------------------------|---|-----------------------------|
| ERIE COUNTY ENVIRONMENTAL |) | |
| COALITION, PENNENVIRONMENT, |) | |
| INC. and THE GAIA DEFENSE LEAGUE, |) | |
| Plaintiffs |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 05-59 ERIE |
| |) | ELECTRONICALLY FILED |
| MILLCREEK TOWNSHIP SEWER |) | |
| AUTHORITY AND MILLCREEK |) | JUDGE COHILL |
| TOWNSHIP, |) | |
| Defendants |) | |

SUPPLEMENTAL AFFIDAVIT OF BRIAN P. McGRATH

| | | |
|------------------------------|---|-----|
| COMMONWEALTH OF PENNSYLVANIA |) | |
| |) | ss: |
| COUNTY OF ERIE |) | |

I, BRIAN P. McGRATH, first being duly sworn on oath and under penalty of perjury,
hereby states as follows:

1. I am a Supervisor of Millcreek Township ("Millcreek") and was first elected a Supervisor of Millcreek Township Supervisor in 1994. There are three Supervisors in Millcreek. Millcreek is a political subdivision of the Commonwealth of Pennsylvania. Millcreek is the operator of the Millcreek sewer system that is owned by the Millcreek Township Sewer Authority ("MTSA").

2. On October 28, 2003, at a publicly noticed Supervisors' meeting, Millcreek approved the execution of the Consent Order and Agreement entered into between MTSA, Millcreek and the Pennsylvania Department of Environmental Protection ("Department") dated October 31, 2003 ("2003 COA").

3. Pursuant to the 2003 COA, Millcreek and MTSA have conducted extensive inflow and infiltration (I&I) investigations and repairs and completed substantial system upgrades including construction of an overflow retention facility at the Kearsarge Pump Station.

4. Pursuant to the 2003 COA Millcreek and MTSA also ensured that a subdivision of 16 homes with failing on-lot septic systems was connected to the Millcreek/MTSA public sewer system to prevent degradation of Walnut Creek from the failing on-lot systems.

5. In addition, since 2003, Millcreek and MTSA have connected to public sewer approximately 100 additional homes with failing on-lot septic systems in the Walnut Creek watershed.

6. Pursuant to a funding request from Pennsylvania Sea Grant, Millcreek has committed \$3,754.00 in its 2008 budget to funding a proposal to work with USGS and a number of other organizations to create a Walnut Creek Gage Station to measure stream flows on Walnut Creek to assist in projects to monitor and enhance the health of Walnut Creek, as well as increase recreation opportunities on Walnut Creek by providing a source of real-time stream flow information to anglers via the internet.

7. Millcreek actively is working with the Department and the owners of the Millcreek Mall to develop a plan to address stormwater management for the Millcreek Mall property, the single largest area of impervious surface in the Walnut Creek watershed.

8. Millcreek, in partnership with the Department, the Pennsylvania Department of Conservation and Natural Resources ("PaDCNR"), Pennsylvania Sea Grant, the Pennsylvania Fish and Boat Commission ("Fish Commission") and others, has agreed to sponsor/participate in a proposed streambank stabilization project on a stretch of Walnut Creek in the area of the stormwater discharge from the Millcreek Mall.

9. Through efforts that began in 2001, Millcreek negotiated the purchase of an approximately 22-acre parcel of property, having approximately 5,442 feet of frontage along Walnut Creek, from a private owner (Marea F. Cassidy) for the purpose of creating a township park on the property.

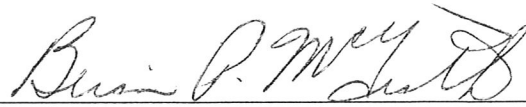
10. Millcreek purchased the property for \$320,000.00 which included a \$168,288.00 acquisition grant from the PaDCNR and \$7,346.00 for a bridge easement.

11. Millcreek allocated the remaining \$144,366.00 needed to purchase the property from the Township's budget as well as contributed considerable employee resources to arrange the transaction.

12. After purchasing the property, Millcreek sold a perpetual access easement to the Fish Commission for \$50,000.00 to ensure future fishing access to Walnut Creek.

13. Millcreek plans to use the \$50,000.00 from the Fish Commission along with additional township money and resources to develop and maintain this parcel as Cassidy Park for public recreational use.

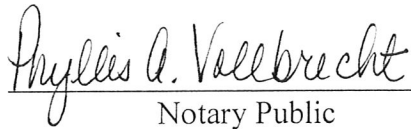
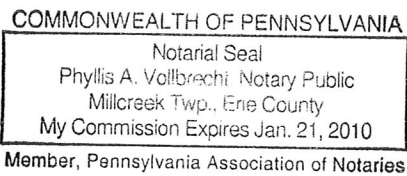
14. Currently the ultimate planned use for the parcel is as a passive municipal park including picnic pavilions, picnic tables, hiking trails, steelhead fishing with access for the disabled, a sand volleyball court, bocce court, playground area, horseshoe pits and public restroom facilities.



Brian P. McGrath

Sworn to and subscribed before me

this 31st day of March, 2008.


Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2008, the foregoing Supplemental Affidavit of Brian P. McGrath was filed electronically with the Clerk of Court using the Electronic Case Filing system. Notice of this filing will be sent to all parties by operation of the Court's ECF system and constitutes service of this filing under Rule 5(b)(2)(D) of the Federal Rules of Civil Procedure. Parties may access this filing through the Court's ECF system.

s/ Mark J. Shaw

Mark J. Shaw

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